

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Albert Piney, et al.,	:
	:
Plaintiffs,	:
	:
-v-	:
	:
City of New York, et al.,	:
	:
Defendants.	:
-----X	
Scott DeFalco, et al.,	:
	:
Plaintiffs,	:
	:
-v-	:
	:
City of New York, et al.,	:
	:
Defendants.	:
-----X	

25-CV-671 (DEH) (SLC)

ORDER

25-CV-1339 (DEH) (SLC)

ORDER

DALE E. HO, United States District Judge:

On April 4, 2025, Plaintiffs and Defendant Rockefeller Center, Inc. filed stipulations of dismissal without prejudice in each of the above-captioned cases pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure. *See Piney*, No. 25 Civ. 671, ECF No. 339; *DeFalco*, No. 25 Civ. 1339, ECF No. 20.

In the Second Circuit, “parties cannot privately settle FLSA claims with a stipulated dismissal with prejudice under Federal Rule of Civil Procedure 41 absent the approval of the

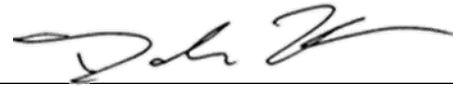
district court or the Department of Labor.” *Fisher v. SD Prot. Inc.*, 948 F.3d 593, 599 (2d Cir. 2020); *see also Cheeks v. Freeport Pancake House, Inc.*, 796 F.3d 199, 206-07 (2d Cir. 2015). The same rule applies to stipulated dismissals *without* prejudice, because “the same pernicious effects” that *Cheeks* seeks to prevent can also be “achieved with a dismissal without prejudice coupled with a broad release.” *Samake v. Thunder Lube, Inc.*, 24 F.4th 804, 810 (2d Cir. 2022). Accordingly, district courts must evaluate such dismissals to ensure that there has been no settlement of FLSA claims. *Id.*; *see also Issa v. A To Z On 8th, Inc.*, No. 1:24 Civ. 3582, 2024 WL 4370843, at *2 (S.D.N.Y. Oct. 2, 2024).

It is therefore ORDERED that, by **April 14, 2025**, the parties shall **either**:

- 1) Certify, in a letter filed jointly by counsel for all relevant parties, that there is no settlement; **or**
- 2) If there is a settlement, file a letter so informing the Court; the Court will thereafter set a schedule for the submission of materials for *Cheeks* review.

SO ORDERED.

Dated: April 10, 2025
New York, New York



DALE E. HO
United States District Judge